



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

(916) 445-6479
(916) 445-1516

July 17, 1990

WILLIAM M. BENNETT
First District, Kentfield

CONWAY H. COLLIS
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.
Third District, San Diego

PAUL CARPENTER
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

CINDY RAMBO
Executive Director

TO INTERESTED PARTIES:

90/53

**NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION**

**RULE 2
THE VALUE CONCEPT**

PUBLIC HEARING: WEDNESDAY, SEPTEMBER 12, 1990

NOTICE IS HEREBY GIVEN

The State Board of Equalization proposes to amend Rule 2, The Value Concept, in Title 18 of the California Code of Regulations, relating to property taxes. A public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m. on Wednesday, September 12, 1990. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by September 12, 1990.

INFORMATIVE DIGEST

Revenue and Taxation Code Section 110 defines "full cash value" or "fair market value" for property tax purposes. In addition, it contains language added by Chapter 1519 of the Statutes of 1988 (AB3382, Quackenbush) which provides a rebuttable presumption that "full cash value" or "fair market value" is the purchase price paid for property in an arms length transaction.

Rule 2 supplements the statutory definition of "full cash value" found in Revenue and Taxation Code Section 110 by adding several synonyms for that term. The rule also adds various conditions under which a sale would be considered to be a market transaction and contains a presumption similar to that added to Section 110 by Chapter 1519 of the Statutes of 1988.

The proposed amendments to Rule 2 streamline the definition of "full cash value" by substituting the term "arms length transaction" for more lengthy language and by recognizing the holding in Carlson v. Assessment Appeals Board No. 1, (1985) 167 Cal.App.3d 1004, that "full cash value" is the market value of the unencumbered or unrestricted fee simple interest in the property subject only to legally enforceable governmental restrictions.

The amendments to Rule 2 also revise the presumption that the sales price is full cash value in order to reflect the holding in Dennis v. County of Santa Clara (1989) 215 Cal.App.3d 1019, that the presumption may always be rebutted by evidence that the market value of the property is more or less than the price paid for it. It includes a standard for determining whether the difference between the price and market value is significant and lists the conditions under which the presumption will not apply. The amendments make other technical or conforming changes.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed change does not impose a mandate on local agencies or school districts. Further, the Board has determined that the change will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code or other nondiscretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

EFFECT ON SMALL BUSINESS

The cost impact on private persons or businesses will be insignificant. This proposal will not have a significant adverse economic impact on small businesses.

AUTHORITY

Government Code Section 15606.

REFERENCE

Article 2, Chapter 3, Part 2, Division 1, Revenue and Taxation Code. Sections 110, 110.1, 401, Revenue and Taxation Code.

CONTACT

Questions regarding the content of the rule should be directed to Deputy Director, Property Taxes Department, at (916) 445-1516, at 1020 N Street, Sacramento, CA 95814.

Written comments for the Board's consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Janice Masterton, Assistant to Executive Director, (916) 445-6479, at the same address.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared a statement of reasons and a strike-out and underscore version (express terms) of the proposed changes. Both of these documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at Room 134, 1020 N Street, Sacramento, California.

ADDITIONAL COMMENTS

In the event there are any staff memoranda included in the rulemaking file after the close of the public hearing, these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions sufficiently related to the published version of the rule, these revisions will be mailed to those interested parties that commented orally or in writing or that asked to be informed of such changes and will be available to the public from Mrs. Masterton for a period of 15 days before adoption.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested persons, may in accordance with law adopt the changes proposed without further notice.

Dated: July 11, 1990

STATE BOARD OF EQUALIZATION



Cindy Rambo
Executive Director

Revised May 11, 1990

RULE 2. THE VALUE CONCEPT

(a) In addition to the meaning ascribed to them in the Revenue and Taxation Code, the words "full value," "full cash value," "cash value," "actual value," and "fair market value" mean the price at which ~~a~~/p~~r~~o~~p~~er~~t~~y the unencumbered or unrestricted fee simple interest in real property (subject to legally enforceable governmental restrictions) ~~is~~/if exposed for sale in the open market with a reasonable time for the seller to find a purchaser in an arms length transaction, would transfer for cash or its equivalent under prevailing market conditions.

b~~e~~x~~a~~m~~p~~l~~e~~s/ p~~a~~r~~t~~i~~c~~u~~l~~a~~r~~s/ w~~h~~o/ h~~a~~v~~e~~/ k~~n~~o~~w~~l~~e~~d~~e~~d/ o~~f~~/ t~~h~~e/ v~~a~~l~~u~~e/ t~~o~~/ w~~h~~i~~c~~h/ t~~h~~e
p~~r~~o~~p~~er~~t~~y/ w~~a~~s/ b~~e~~/ p~~a~~r~~t~~y/ b~~o~~u~~nd~~ed/ s~~ee~~kiⁿg/ t~~o~~/ m~~a~~xⁱmⁱz^e/ t~~h~~e/ iⁿ/ g^aiⁿs/ aⁿd
n^ee^d/ t^o/ b^el^on^g/ iⁿ/ a/ p^os^si^bl^e/ t^o/ t^ak^e/ aⁿd/ aⁿd/ o^f/ t^he
e^xi^geⁿcⁱs^e/ o^f/ t^he/ o^ut^er/ // T^he/ f^ul^l/ v^al^ue/ // f^ul^l/ c^as^h
v^al^ue/ // f^ul^l/ c^as^h/ v^al^ue/ // f^ul^l/ c^as^h/ v^al^ue/ // aⁿd/ f^ai^r/ m^ar^ke^t/ v^al^ue/
o^f/ t^he/ p^ro^per^ty/ b^el^on^g/ a^pp^ro^pri^at^e/ u^poⁿ/ a/ p^ar^ty/ o^f/ t^he
t^raⁿs^fe^r/ c^on^si^de^ratⁱoⁿ/ a/ c^haⁿg^e/ iⁿ/ o^wn^er^shⁱp/ a^s/ d^efⁱn^ed/ iⁿ
s^ec^ti^on/ b^o/ o^f/ t^he/ r^ev^en^ue/ aⁿd/ t^ax^atⁱoⁿ/ c^od^e/ s^ha^ll/ b^e
t^he/ p^ar^ty/ p^ri^ce/ p^ai^d/ iⁿ/ s^uch/ t^raⁿs^ac^ti^on/ uⁿl^es^s/ t^he^re/ i^s
s^ub^st^an^ti^al/ aⁿd/ c^on^si^de^ratⁱoⁿ/ eⁿcⁱs^e/ t^ha^t/ t^he/ t^raⁿs^ac^ti^on/ p^ro^per^ty
w^ou^ld/ h^av^e/ t^raⁿs^fe^rred/ f^or/ s^uch/ p^ar^ty/ p^ri^ce/ iⁿ/ aⁿ/ o^peⁿ
m^ar^ke^t/ t^raⁿs^ac^ti^on/ // T^he/ p^ar^ty/ p^ri^ce/ s^ha^ll/ h^ow^ev^er/ b^e
t^em^po^ra^ry/ p^re^su^me^d/ t^o/ b^e/ t^he/ f^ul^l/ v^al^ue/ // f^ul^l/ c^as^h
v^al^ue/ // f^ul^l/ c^as^h/ v^al^ue/ // f^ul^l/ c^as^h/ v^al^ue/ // o^f/ f^ai^r/ m^ar^ke^t/ v^al^ue/ //~~~~~~~~

IF THE TERMS OF THE TRANSACTION WERE NEGOTIATED AT A TIME
LENGTHY BEFORE A KNOWLEDGEABLE TRANSFEROR AND TRANSFEREE
NEITHER OF WHICH COULD TAKE ADVANTAGE OF THE EXIGENCIES OF
THE OTHER//PURCHASE PRICE/AS USED IN THIS SECTION IS THE
TOTAL CONSIDERATION PROVIDED BY THE PURCHASER OR ON HIS
BEHALF//VALUED IN MONEY//WHETHER PAID IN MONEY OR OTHERWISE//

(b) When valuing real property (as described in paragraph (a))
as the result of a change in ownership (as defined in Revenue
and Taxation Code Section 60 et seq.) for consideration, it
shall be rebuttably presumed that the consideration valued in
money, whether paid in money or otherwise, is the full cash
value of the property. The presumption shall shift the burden
of proving value by a preponderance of the evidence to the
party seeking to overcome the presumption. The presumption may
be rebutted by evidence that the full cash value of the
property is significantly more or less than the total cash
equivalent of the consideration paid for the property. A
significant deviation means a deviation of more than 5% of the
total consideration.

(c) The presumption provided in this section shall not apply to:

(1) The transfer of any taxable possessory interest.

(2) The transfer of real property when the consideration is
in whole, or in part, in the form of ownership interests in

a legal entity (e.g., shares of stock) or the change in ownership occurs as the result of the acquisition of ownership interests in a legal entity.

(3) The transfer of real property when the information prescribed in the change in ownership statement is not timely provided.

(d) If a single transaction results in a change in ownership of more than one parcel of real property, the purchase price shall be allocated among those parcels and other assets, if any, transferred based on the relative fair market value of each.

Reference: Article 2, Chapter 3, Part 2, Division 1, Revenue and Taxation Code. Sections 110, 110.1, 401, Revenue and Taxation Code.

Authority: Section 15606, Government Code.